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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,797	03/10/2004	Alfred Max Chavez	415.100	5637

30040 7590 06/25/2007  
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YORBA LINDA, CA 92886

EXAMINER
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LOBO, IAN J

ART UNIT	PAPER NUMBER
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3662

MAIL DATE	DELIVERY MODE
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06/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/798,797	<b>Applicant(s)</b> CHAVEZ ET AL.	
	<b>Examiner</b> Ian J. Lobo	<b>Art Unit</b> 3662	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.  
     4a) Of the above claim(s) 28-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-27 is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☒ Claim(s) 22-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-31 in the reply filed on March 15, 2006 is acknowledged.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-27, drawn to an ultrasonic transducer assembly, classified in class 367, subclass 152.
  - II. Claims 28-31, drawn to a method to detect an object in a body of water, classified in class 367, subclass 124.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions of Group II and Group I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the ultrasonic transducer assembly can be used to practice another and materially different process such as underwater diver communications or telemetry.
4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required

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because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mr. Shippey on June 18, 2007 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-27. Affirmation of this election must be made by applicant in replying to this Office action. Claims 28-31 and as aforementioned, claims 32 and 33 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Drawings***

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "28" has been used to designate both a conduit and a capacitor (see para. 0028). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures

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appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, there is no antecedent for "the transformer" in claim 1.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1, 7, 10, 11 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by the patent to Hands ('945).

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Hands discloses an ultrasonic transducer assembly that includes a housing (30), an ultrasonic transducer (24) disposed within an interior of the housing and having an active surface directed away from the housing interior, and an acoustic block (22). The structure claimed in claim 1 is anticipated by the structure disclosed in Hands.

Per claim 7, see solid polyurethane elastomer (22).

Per claims 10 and 11, see cork mount (54).

Per claim 14, see col. 3, lines 9-11.

12. Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckert ('456).

Eckert discloses an ultrasonic transducer assembly that includes a housing (1), an ultrasonic transducer (2) disposed within an interior of the housing and having an active surface directed away from the housing interior, and an acoustic block (3). The structure claimed in claim 1 is anticipated by the structure disclosed in Eckert.

Per claim 14, see col. 4, lines 1-6.

13. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Tabin ('067).

Tabin discloses an ultrasonic transducer assembly that includes a housing (21), an ultrasonic transducer (2) and a transformer (17).

14. Claims 1-3, 5 and 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hare et al ('998).

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Hare et al discloses an ultrasonic transducer assembly that includes a housing (38), an ultrasonic transducer (2), an acoustic block (4), an inductor or transformer (24), and a capacitor (30).

Per claim 5, see cyanoacrylate adhesive.

Per claim 14, see col. 3, lines 55-57.

Per claims 15-17 see Fig. 1.

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Hare et al, Hands or Eckert in view of Grunert et al ('436).

The difference between claims 6-9 and the aforementioned ultrasonic transducer assemblies lies in the type of acoustic block used. However, in as much as phenolic and beryllium are well know acoustic blocks (see Grunert et al), it would have been obvious to one of ordinary skill in the art to have substituted either phenolic or beryllium for the acoustic blocks of Hands, Eckert or Hare et al.

***Allowable Subject Matter***

17. Claims 20, 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claims 25-27 are allowed.

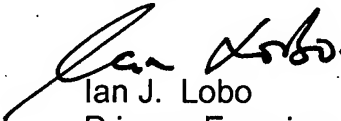
19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (571) 272-6974. The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Ian J. Lobo  
Primary Examiner  
Art Unit 3662

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